## **EXHIBIT M**

TO AFFIDAVIT OF MICHAEL N. EDELMAN IN SUPPORT OF ADVANCEME, INC.'S OPPOSITION TO MOTION FOR LEAVE TO AMEND INVALIDITY CONTENTIONS

## CLAIMS

## PRIOR PUBLICATION REFERENCES

LITLE & CO.
INVALIDITY CLAIM CHART
UNITED STATES PATENT NO. 6,941,281

C	Case 6:05-cv-00424-LED	Document 114	Filed 09/25/2006	Page 2 d
		at a merchant, accepting a customer identifier as payment from the customer,		1. A method for automated payment, comprising:
"BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING MEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue. White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and after the effective date, if shown, and through and including the expiration date embossed thereon." Id.	whereas, member desires to honor Charge Cards in connection with the retail sale of Products to Member's customers, to submit Sales representing such transactions to Litle for processing and to sell to FNBL the Sales representing such transactions to Litle for processing and to sell to FNBL the Sales represented with Bank Cards and the indebtednesses represented thereby."  Member Agreement at LI 00018.  "Charge Card is the plastic Bank Card or T&E Card issued by a Card Organization to the Cardholder and the charge account number designated on the card, either of which Member accepts from customers as payment for their purchases from Member." Id.	The merchant, either directly or via its agent,—accepted credit cards as would accept a customer identifier-from customers for e.g., a card, as payment from the customer. See Forbes Article (referring to Exposures' "credit card processor" and "credit card receivables", showing that credit cards were received as payment)—Member Agreement, LI 00017-29. "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and electronic data representing transactions conducted through the use of CHARGE CARDS,	See, e.g., Litle & Co. Member Agreement, LI 00017-29 (hereafter "Member Agreement"); see, e.g., Demand Promissory Note for Postage Advances between Museum Publications of America and Litle & Co., dated September 27, 1993, LI 00033-35 (hereafter "Promissory Note"); see, e.g., February 17, 1994 Letter from Robert George to Michael Duffy, LI 00030-31; see M. Kripalani, T. Pouschine, "People thought I was nuts", FORBES, June 8, 1992, v.149, n12, p120(2), LI 00001-03 (hereafter "Forbes Article"); See Promissory Note for Postage Advances between Exposures, Inc. and Litle & Co., dated June 22, 1990 ("Promissory Note").	Litle & Co. ("Litle") utilized a method for automated payments to <u>Litle</u> as repayment of obligations owed by merchants arising out of Litle's advance of eash or either for postage eests to merchants.—or cash advances.

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Litle acted as the computerized merchant processor, see Forbes Article (referring to Litle as	at the computerized merchant processor,
from Tim Litle to Robert George, L1 00016.	
with you to provide a high level of customer and technical service." February 28, 1992 letter	
"Litle & Co. continues to be your credit card processor and will continue to work directly	
CARD SALE." Id. at L1 00019.	
"SALES RECORD means all documents or data presented to LITLE as evidence of a	
computerized merchant processor).	
merchant electronically forwarded information related to the payment to Litle, a	
the CARDHOLDER's signature shall be obtained) Id. at LI 00019 (showing that the	
telephone order (TO) or pre-authorized order (PO) (except for sales made in person, for which	
provided for the CARDHOLDERS's signature that the sale was initiated by mail order (MO),	
"c. MEMBER shall complete each SALES RECORD to include a notation in the space	
customer identifier).	
CARD SALE." Id. at LI 00019 (showing that the merchant electronically accepts the	
"SALES RECORD means all documents or data presented to LITLE as evidence of a	
information related to the payment to Litle, a computerized merchant processor).	
Member Agreement at LI 00018 (showing that the merchant electronically forwarded	
representing such transactions to LITLE for processing and to sell to FNBL the SALES	
of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs	
WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale	
and	
electronic data representing transactions conducted through the use of CHARGE CARDS,	
"WHEREAS, LITLE and NPC are engaged in the business of processing paper based and	
Article (referring to Litle as the "credit card processor").	F - 2
-	payment to a computerized merchant processor;
	and electronically forwarding information related to the
embossed thereon." Id. at LI 00019.	
valid on and after the effective date, if shown, and through and including the expiration date	
American Express. Carte Blanche, Diner's Club or Discover. A T&E CARD shall be deemed	
"T&E CARD is a valid and unexpired Travel and Entertainment CHARGE CARD issued by	
"CARD ORGANIZATION is VISA MCTon the issuer of a T&F CARD" Id	( and a sign of
SPECIFICATION PRIOR PUBLICATION REFERENCES	CLAIMS

merchant:

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## SPECIFICATION PRIOR PUBLICATION REFERENCES

portion of an obligation made by the computerized payment receiver as payment of at least a and forwarding at least a portion of the payment to a merchant, authorizing and settling the payment, Jeorge, LI 00016.

acquiring the information related to the payment from the the "credit card processor"), and language of the patent makes clear that merchant processors level of customer and technical service." February 28, 1992 letter from Tim Litle to Robert be your credit card processor and will continue to work directly with you to provide a high acquire payment information and authorize and settle the payment. \_\_"Litle & Co. continues to

payment receiver, for financing postage costs, with the remainder, the discounted credit card <del>companies was forwarded as payment on Exposures' obligation to Litle, as a computerized</del> receivables, being forwarded to Exposures). receivables." See Forbes Article (showing that a portion of the payment from credit card "Litle-agreed to finance [Exposures'] postage by discounting his [Exposures'] credit card

electronic data representing transactions conducted through the use of CHARGE CARDS...." Member Agreement at LI 00018. "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and

subsidiaries will be processed by Litle & Co. while any amount owed under this note is still Amount of Advance plus accrued interest at 10% ... management fee to Litle & Co., or order Postal Service, [Museum Publications of America] agrees to pay on demand the Principal Postmaster, Atlanta, GA, [Exposures Museum Publications of America] to United States obligation that arose when Litle advance postage costs ( "Principal Amount of Advance") to Proceeds") are forwarded to Litle, as a computerized payment receiver, in satisfaction of the NET PROCEEDS.—See Promissory Note (showing that a portion of payments ( outstanding. Notwithstanding that such amounts are otherwise payable on demand, MEMBER further agrees that all CHARGE CARD transactions from all divisions and m<del>erchant)</del>. . . . [Exposures]MEMBER agrees that . . . (ii) the Daily Repayments shall be deducted from daily "In consideration of Litle & Co. making advances for the account of [Exposures] to

Promissory Note at L1 00033 (showing that a portion of the card payments were forwarded to from MEMBER to LITTLE, Less any PREPAYMENTS hat arose when Litle advanced postage costs ("Principal Amount of Advance") to merchant ttle, as a computerized payment receiver, as payment of at least a portion of an obligation ess RELEASED CHARGEBACKS (if no RESERVE exists), Less any other amounts due NET PROCEEDS is an amount equal to: The GROSS PROCEEDS, Less LITLE FEES

CLAINS	
	Member Agreement at L1 00018.
	"Litle agreed to finance [Exposures, Inc.'s ( "Exposures")] postage by discounting his
	[Exposures'] credit card receivables." See Forbes Article at LI 00003 (describing how a
	portion of the payment from credit card companies was forwarded as payment on Exposures
	obligation to Litle, as a computerized payment receiver, for financing postage costs, with the
	remainder, the discounted credit card receivables, being forwarded to Exposures).
	"As security for the obligations of Boston Publishing (the Borrower) under such financing
	agreements, Hanover Finance is being granted a security interest in our inventory, certain
	accounts and substantially all of the tangible and intangible personal property of Boston
	Publishing, including, without limitation, all rights of the Borrower to receive payments in
	respect of Card Sales from Litle & Co 1. Upon written instruction from Hanover Finance
	or assignees of Hanover Finance, designated in writing by Hanover Finance, without further
	action by Boston Publishing, you will make all payments of Net Proceeds or any other credits,
	reserves, deposits, balances, refunds or other amounts now or hereafter due to Boston
	Publishing under the Member Agreement in respect of Card Sales directly by wire transfer, to
	such account or accounts as Hanover Finance may designate in writing (the "Accounts")."
	February 17, 1994 Letter from Robert George to Michael Duffy at LI 00030-31
	(showing that Litle forwarded a portion of the payment to the loan payment receiver, e.g.,
	Hanover Finance, as payment of at least a portion of an obligation made by the merchant, e.g.,
	Boston Publishing).
and at the computerized payment receiver,	"Litle agreed to finance his [Exposures] postage by discounting his [Exposures] credit
receiving the portion of the payment forwarded by the computerized merchant processor and applying that	card receivables. See Forbes Article (showing that a portion of the payment from credit card companies was diverted by the merchant processor as payment on Exposures' obligation to
portion to the outstanding obligation made by the	Little for financing postage costs). "In consideration of Little & Co. making advances for the
merchant to reduce such obligation.	account of [Exposures] to Postmaster, Atlanta, GA, [ExposuresMuseum Publications of
	Americal to United States Postal Service, [Museum Publications of America] agrees to pay
	on demand the Principal Amount of Advance plus accrued interest at 10% management fee
	to Litle & Co., or order, MEMBER further agrees that all CHARGE CARD transactions from
	all divisions and subsidiaries will be processed by Litle & Co. while any amount owed under
	this note is still outstanding. Notwithstanding that such amounts are otherwise payable on
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	from daily NET PROCEEDS"—See

"T&E CARD is a valid and unexpired Travel and Entertainment CHARGE CARD issued by

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Ехинвит 6

## SPECIFICATION PRIOR PUBLICATION REFERENCES

comprises accepting a credit card number as the customer Kripalani, T. Pousehine, "People thought I was nuts", FORBES, June 8, 1992, v.149, n12, identifier. The method of claim 1 wherein the accepting step postage costs ( "Principal Amount of Advance") to merchant); see Promissory Note Promissory Note at LI 00033 (showing that a portion of payments ("Net Proceeds") arethe of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs p120(2) (hereafter "Forbes Article") (referring to Exposures' "credit card processor" and The merchant, Exposures, Inc., accepted credit cards from customers for payment. See M. Repayment Schedule at LI 00035 (showing that Litle received and applied the forwarded payment is received by Litle as repayment of an obligation that arose when Litle advanced RECORDs generated with BANK WHEREAS. MEMBER desires to honor CHARGE CARDS in connection with the retail sale Member Agreement at LI 00018. from MEMBER to LITLE, Less any PREPAYMENTS." representing such transactions to LITLE for processing and to sell to FNBL the SALES representing transactions conducted through the use of CHARGE CARDS, and "credit card receivables", showing that credit cards were received as payment)- "WHEREAS ortion of the payment to Museum Publication of America's outstanding obligation to Litle after the effective date, if shown, and through and including the expiration date embossed White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and MEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue, card, either of which MEMBER accepts from customers as payment for their purchases from ORGANIZATION to the CARDHOLDER and the charge account number designated on the CARDs and the indebtednesses represented thereby." Member Agreement at LI 00018. ITLE and NPC are engaged in the business of processing paper based and electronic data ess RELEASED CHARGEBACKS (if no RESERVE exists), Less any other amounts due "NET PROCEEDS is an amount equal to: The GROSS PROCEEDS, Less LITLE FEES, "BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD "CARD ORGANIZATION is VISA, MCI or the issuer of a T&E CARD." Id

identifier.

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comprises accepting a debit card number as the customer invention of Plaintiff's asserted claims to apply mechanisms and methods in use for one type The method of claim 1 wherein the accepting step of customer identifier to another type of customer identifier, e.g. for debit cards as well as American Express, Carte Blanche, Diner's Club or Discover. A T&E CARD shall be deemed for payment. See M. Kripalani, T. Pouschine, "People thought I was nuts", FORBES, June 8 motivated to make the method or system work in the same way for any customer identifier, credit cards. And the statements by the alleged inventor and by the examiner, and the embossed thereon." Id. at LI 00019 valid on and after the effective date, if shown, and through and including the expiration date language of the patent itself makes clear that a person of ordinary skill in the art would be It would have been obvious to a person of ordinary skill in the art at the time of the alleged including debit cards. The merchant, Exposures, Inc., accepted credit cards from customers

electronic data representing transactions conducted through the use of CHARGE CARDS, "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and

processor" and "credit card receivables"; showing that credit cards were received as

1992, v.149, n12, p120(2) (hereafter "Forbes Article") (referring to Exposures' "credit card

WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale RECORDs generated with BANK CARDs and the indebtednesses represented thereby." of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs epresenting such transactions to LITLE for processing and to sell to FNBL the SALES

card, either of which MEMBER accepts from customers as payment for their purchases from ORGANIZATION to the CARDHOLDER and the charge account number designated on the "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD

Member Agreement at LI 00018

White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and MEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue, after the effective date, if shown, and through and including the expiration date embossed "BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING "CARD ORGANIZATION is VISA, MCI or the issuer of a T&E CARD." Id. "T&E CARD

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4. The method of claim 1 wherein the accepting step comprises accepting a smart card number as the customer identifier.

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of customer identifier to another type of customer identifier, e.g. for smart cards as well as and after the effective date, if shown, and through and including the expiration date embosse is a valid and unexpired Travel and Entertainment CHARGE CARD issued by American credit cards. And the statements by the alleged inventor and by the examiner, and the It would have been obvious to a person of ordinary skill in the art at the time of the alleged Express, Carte Blanche, Diner's Club or Discover. A T&E CARD shall be deemed valid on motivated to make the invention of Plaintiff's asserted claims to apply mechanisms and methods in use for one type thereon." Id. at LI 00019 language of the patent itself makes clear that a person of ordinary skill in the art would be

p120(2) (hereafter "Forbes Article") (referring to Exposures' "credit card processor" and Kripalani, T. Pouschine, "People thought I was nuts", FORBES, June 8, 1992, v.149, n12, The merchant, Exposures, Inc., accepted credit cards from customers for payment. See M. method or system work in the same way for any customer identifier, including smart cards 'eredit card receivables'', showing that credit cards were received as payment). "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and

lectronic data representing transactions conducted through the use of CHARGE CARDS,

WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale RECORDs generated with BANK CARDs and the indebtednesses represented thereby." of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs Member Agreement at LI 00018. representing such transactions to LITLE for processing and to sell to FNBL the SALES

ORGANIZATION to the CARDHOLDER and the charge account number designated on the "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD

card, either of which MEMBER accepts from customers as payment for their purchases from

MEMBER." Id

White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and after the effective date, if shown, and through and including the expiration date embossed MEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue. "BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING

customer identifier.

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## SPECIFICATION PRIOR PUBLICATION REFERENCES

comprises accepting a charge card number as the The method of claim 1 wherein the accepting step <del>credit cards. And the statements by the alleged inventor and by the examiner, and the</del> of customer identifier to another type of customer identifier, e.g. for charge cards as well as <del>invention of Plaintiff's asserted claims to apply mechanisms and methods in use for one typ</del> It would have been obvious to a person of ordinary skill in the art at the time of the alleged payment). "WHEREAS, LITLE and NPC are engaged in the business of processing paper for payment. See M. Kripalani, T. Pouschine, "People thought I was nuts", FORBES, June 8 including charge-cards. The merchant, Exposures, Inc., accepted credit cards from customers motivated to make the method or system work in the same way for any customer identifier, <del>language of the patent itself makes clear that a person of ordinary skill in the art would be</del> American Express, Carte Blanche, Diner's Club or Discover. A T&E CARD shall be deemed processor" and "credit card receivables", showing that credit cards were received as 1992, v.149, n12, p120(2) (hereafter "Forbes Article") (referring to Exposures' "credit card valid on and after the effective date, if shown, and through and including the expiration date based and electronic data representing transactions conducted through the use of CHARGE embossed thereon." Id. at LI 00019 "CARD ORGANIZATION is VISA, MCI or the issuer of a T&E CARD." Id &E CARD is a valid and unexpired Travel and Entertainment CHARGE CARD issued by

RECORDs generated with BANK CARDs and the indebtednesses represented thereby." of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale Member Agreement at Ll 00018 representing such transactions to LITLE for processing and to sell to FNBL the SALES

card, either of which MEMBER accepts from customers as payment for their purchases from ORGANIZATION to the CARDHOLDER and the charge account number designated on the "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD

White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and MEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue, after the effective date, if shown, and through and including the expiration date embossed "BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING

## FILLE & Co. Ехинвит 6 INVALIDITY CLAIM CHART UNITED STATES PATENT NO. 6,941,281

CLAIMS	SPECIFICATION PRIOR PUBLICATION REFERENCES
	"CARD ORGANIZATION is VISA, MCI or the issuer of a T&E CARD." Id.  "T&E CARD is a valid and unexpired Travel and Entertainment CHARGE CARD issued by American Express, Carte Blanche, Diner's Club or Discover. A T&E CARD shall be deemed valid on and after the effective date, if shown, and through and including the expiration date embossed thereon." Id. at LI. 00019.
6. The method of claim 1 wherein the accepting step  On information and belie comprises accepting the customer identifier at a merchant or merchant's agent "c.	On information and belief, customer identifiers were accepted at a the location of a merchant tor merchant's agent <u>"c. MEMBER shall complete each SALES RECORD to include a</u>
location.	notation in the space provided for the CARDHOLDER's signature that the sale was initiated by mail order (MO), telephone order (TO) or pre-authorized order (PO) (except for sales made in person, for which the CARDHOLDER's signature shall be obtained)" Member Agreement at LI 00019.
7. The method of claim 1 wherein the accepting step comprises electronically accepting the customer identifier.	On information and belief, customer identifiers were accepted electronically. "c. MEMBER shall complete each SALES RECORD to include a notation in the space provided for the CARDHOLDER's signature that the sale was initiated by mail order (MO), telephone order
	CARDHOLDER's signature shall be obtained)" Member Agreement at LI 00019.  "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and electronic data representing transactions conducted through the use of CHARGE CARDS" Member Agreement at LI 00018 (showing that the merchant electronically accepts the customer identifier).  "SALES RECORD means all documents or data presented to LITLE as evidence of a CARD SALE." Id. at LI 00019 (showing that the merchant electronically accepts the customer identifier).
8. The method of claim 1 wherein the steps performed at the merchant processor further comprise accumulating	Postmaster. Atlanta. GA. [Exposures] agrees to pay on demand the Principal Amount of
the payments until a predetermined amount is reached	Advance plus accrued interest at 10% Notwithstanding that such amounts are otherwise
payments to the payment receiver.	payments to the payment receiver.    Continuous of the payment receiver   Continuous of the payments were forwarded on a periodic basis Litle would accumulate the payments until a predetermined amount was reached and then forward at least a portion of the accumulated payments to the payment.
	receiver. See, e.g., Promissory Note Repayment Schedule at LI 00035 (outlining specified

daily and weekly payment amount).+

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Exilibra 6 LITLE & Co.

INVALIDITY CLAIM CHART

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9. The method of claim 1 wherein the steps	Litle would periodically forward at least a portion of the payment to the payment receiver.
performed at the merchant processor comprise	See, e.g., Promissory Note Repayment Schedule at LI 00035 (outlining daily and weekly
e payment	payment schedules). "In consideration of Litle & Co. making advances for the account of
to the payment receiver.	[Exposures] to Postmaster, Atlanta, GA, [ExposuresMuseum Publications of America] to
	United States Postal Service, [Museum Publications of America] agrees to pay on demand the
	Principal Amount of Advance plus a <del>ccrued interest at 10%<u>management fee to Litle &amp; Co</u> or order. MEMBER further agrees that all CHARGE CARD transactions from all divisions</del>
	and subsidiaries will be processed by Litle & Co. while any amount owed under this note is
	still outstanding. Notwithstanding that such amounts are otherwise payable on demand,
	HEXPOSURES WIE MADER agrees that (III) the Daily Nepayments shall be deducted from early NFT PROCEEDS — "—See Promissory Note at LI 00033 (showing that payments were
	periodically forwarded on a periodic basis).[FN/1] [FN/1] At this pre-claim construction stage
	of the action, Defendant takes no position as to the appropriateness of the claim construction
	("Infringement Contentions") but note that under the approach in the Infringement
	Contentions, which equates periodic forwarding with accumulation to a pre-determined
10. A system for automated payment of an obligation	Litle utilizesutilized a system for automated payments to Litle as repayment of obligations
	owed by merchants either for postage or cash advances. See <u>Member Agreement:</u> Promissory
at a merchant,	The merchant, Exposures, Inc.,
means for accepting a customer identifier as payment	accepted credit cards from customers for payment and means for accepting a customer
	identifier as payment existed, including, on information and belief, a merchant terminal or point of sale device. See M. Kripalani, T. Pouschine, "People thought I was nuts",
	FORBES, June 8, 1992, v.149, n12, p120(2) (hereafter "Forbes Article") (referring to Exposures' "credit card processor" and "credit card receivables", showing that credit cards
	were received as payment).
	-"Little agreed to finance [Exposures'] postage by discounting his [Exposures'] credit card
	receivables. See Forces Afficie (showing implicitly that means exist in the system for

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## EXHIBIT 6 LITLE & Co. INVALIDITY CLAIM CHART UNITED STATES PATENT NO. 6,941,281 CLAIMS

CLARIVE	STECHTONIZERON COLLEGE INC.
	electronically forwarding a portion of the payment from credit card companies to Litle, including, on information and belief, a computer running appropriate software).
at a merchant,	"In consideration of Litle & Co. making advances for the account of [Exposures] to
means for accepting a customer identifier as payment from the customer and for electronically forwarding information related to the payment to a computerized	Postmaster, Atlanta, GA, [Exposures] agrees to pay on demand the Principal Amount of Advance plus accrued interest at 10%" See Promissory Note (showing obligation from the merchant to Litle).
merchant processor,	"Litle agreed to finance his [Exposures'] postage by discounting his [Exposures'] credit
wherein the merchant associated with the payment has an outstanding obligation to a third party;	wherein the merchant associated with the payment has an card receivables." See Forbes Article (showing implicitly that means exist in the Litle system outstanding obligation to a third party;  for Litle, as the merchant processor, to receive the payment information The merchant, either directly or via its agent, would accept a customer identifier as payment from the customer.
and at the computerized merchant processor, means for receiving the information related to the payment from the merchant, means for authorizing and settling the payment.	and at the computerized merchant processor, means for Means for accepting a customer identifier as payment existed, including, on information and receiving the information related to the payment from the belief, a computer running appropriate software) magnetic card reader, keyboard input and/or merchant, means for authorizing and settling the payment.
and means for forwarding a portion of the payment to the third party to reduce the obligation.	The language of the patent makes clear that merchant processors acquire payment to the information and authorize and settle the payment. On information and belief, the means for third party to reduce the obligation.  performing this function is a computer running appropriate software.
	"In consideration of Litle & Co. making advances for the account of [Exposures] to Postmaster, Atlanta, GA, [Exposures] agrees to pay on demand the Principal Amount of Advance plus accrued interest at 10%Notwithstanding that such amounts are otherwise payable on demand, [Exposures] agrees that Daily Repayments shall be deducted from daily NET PROCEEDS."
	"WHEREAS, LITLE and NPC are engaged in the business of processing paper based and electronic data representing transactions conducted through the use of CHARGE CARDS, and
	WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDS
	RECORDs generated with BANK CARDs and the indebtednesses represented thereby."  Member Agreement at L1 00018 (showing that the merchant maintained a magnetic card
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electronically forwarded information related to the payment to Litle, a computerized RECORD to include a notation in the space provided for the CARDHOLDERS's signature reader and/or keyboard input and/or telephone for accepting a customer identifier and White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and PO) (except for computer running appropriate software). \_\_"c. MEMBER shall complete each SALES sales made in person, for which the CARDHOLDER's signature shall be obtained). hat the sale was initiated by mail order (MO), telephone order (TO) or pre-authorized order Proceeds") to Litle as repayment of obligation that arose when Litle advanced postage costs See Promissory Note (showing that means exist for forwarding a portion of payments ( "Ne ncluding the expiration date embossed thereon." Id. at LI 00019. "In consideration of Litl CARD shall be deemed valid on and after the effective date, if shown, and through and CARD issued by American Express, Carte Blanche, Diner's Club or Discover. A T&E s a valid and unexpired Travel and Entertainment CHARGE VIEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue, ard, either of which MEMBER accepts from customers as payment for their purchases from ORGANIZATION to the CARDHOLDER and the charge account number designated on the ntormation related to the payment to Litle, a computerized merchant processor). nput and/or telephone for accepting a customer identifier and electronically forwarded nerchant processor ther the effective date, if shown, and through and including the expiration date embossed "BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD "CARD ORGANIZATION is VISA, MCI or the issuer of a T&E CARD." Id. "T&E CARD "Principal Amount of Advance") to merchant, including, on information and belief, a 00019 (showing that the merchant maintained a magnetic card reader and/or keyboard

further agrees that all CHARGE CARD transactions from all divisions and subsidiaries wil Principal Amount of Advance plus management fee to Litle & Co., or order, MEMBER & Co. making advances for the account of [Museum Publications of America] to United

tates Postal Service, [Museum Publications of America] agrees to pay on demand the

O	e 14	ag	Р	6	000	5/2	/2	09	ed	File		14	t 1	en	um	000		)	EC.	4-L	42	/-0(	5-C\	:05	e 6	as	C			
CLAIMS																			and at the computerized merchant processor,	means for receiving the information related to the	payment from the merchant, means for authorizing and	Settinis die battiette			and means for forwarding a portion of the payment to the	third party to reduce the obligation.				
SENTING TO THE STATE OF THE STA	be processed by Little & Co. while any amount owed under this note is suit outstaining.  Notwithstanding that such amounts are otherwise payable on demand, MEMBER agrees	that (ii) the Daily Repayments shall be deducted from daily NET PROCEEDS "	Promissory Note at LI 00033 (showing that Litle acted as the merchant processor and that the	merchant had an outstanding obligation that arose when Litle advanced postage costs	("Principal Amount of Advance") to merchant). "As security for the obligations of Boston	Publishing (the Borrower) under such financing agreements. Hanover Finance is being			all rights of the Borrower to receive payments in respect of Card Sales from Litle & Co1.	Upon written instruction from Hanover Finance or assignees of Hanover Finance, designated	in writing by Hanover Finance, without further action by Boston Publishing, you will make	all payments of Net Proceeds or any other credits, reserves, deposits, balances, refunds or	other amounts now or hereafter due to Boston Publishing under the Member Agreement in	respect of Card Sales directly by wire transfer, to such account or accounts as Hanover	Finance may designate in writing (the "Accounts").	February 17, 1994 Letter from Kobert George to Michael Duffy at EL 00000-31	Showing that the their little e.g., boston rubitshing, had an outstanding congation to a unite	pary, e.g., nailover finalice).	The language of the patent makes clear that a merchant processor acquires payment	information and authorizes and	d performing these functions and for forwarding a portion of the payment to the duming party to be performed in a modern and computer running appropriate software	"I itle & Co continues to be your credit card processor and will continue to work directly	with you to provide a high level of customer and technical service." February 28, 1992 letter	from Tim Litle to Robert George at LI 00016.	C201122	(O)	(2) <b>and</b> 一条, 有一种, 他一种, 是一个, 是一个, 是一个, 是一个, 是一个, 是一个, 是一个, 是一个	WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale	of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDS	representing such transactions to Little for processing and to seleto experiences.

the customer identifier.

comprises means for accepting a credit card number as

The system of claim 10 wherein the accepting means The merchant, Exposures, Inc., e.g., Museum Publications of America, accepted credit card

from customers for payment.—See M. Kripalani, T. Pouschine, "People thought I was nuts".

FORBES, June 8, 1992, v.149, n12, p120(2) (hereafter "Forbes Article") (referring to

## SPECIFICATION PRIOR PUBLICATION REFERENCES

RECORDs generated with BANK CARDs and the indebtednesses represented thereby." February 17, 1994 Letter from Robert George to Michael Duffy at LI 00030-31 (showing Publishing, including, without limitation, all rights of the Borrower to receive payments in Publishing under the Member Agreement in respect of Card Sales directly by wire transfer, of America to United States Postal Service. [Museum Publications of America] agrees to pay Finance, to reduce the merchant's, e.g., Boston Publishing, obligation) hat Litle could forward a portion of the payment to the loan payment receiver, e.g., Hanove or assignees of Hanover Finance, designated in writing by Hanover Finance, without further espect of Card Sales from Litle & Co. . . . 1. Upon written instruction from Hanover Finance rom MEMBER to LITLE, Less any PREPAYMENTS." Member Agreement at LI 00018. ostage costs ( "Principal Amount of Advance") to merchant). omputerized payment receiver, to reduce the obligation that arose when Litle advanced ubsidiaries will be processed by Litle & Co. while any amount owed under this note is still eserves, deposits, balances, refunds or other amounts now or hereafter due to Boston ction by Boston Publishing, you will make all payments of Net Proceeds or any other credits greements, Hanover Finance is being granted a security interest in our inventory, certain ROCEEDS. n demand the Principal Amount of Advance plus management fee to Litle & Co., or order. Aember Agreement at LI 00018. "In consideration of Litle & Co. making advances for the account of [Museum Publications ccounts and substantially all of the tangible and intangible personal property of Boston ess RELEASED CHARGEBACKS (if no RESERVE exists). Less any other amounts due "NET PROCEEDS is an amount equal to: The GROSS PROCEEDS, Less LITTLE FEES, IEMBER agrees that . . . (ii) the Daily Repayments shall be deducted from daily NET IEMBER further agrees that all CHARGE CARD transactions from all divisions and ich account or accounts as Hanover Finance may designate in writing (the "Accounts")." itstanding. Notwithstanding that such amounts are otherwise payable on demand As security for the obligations of Boston Publishing (the Borrower) under such financing 1 00035 (showing that a portion of card payments are forwarded to Litle, as a ..... Promissory Note at LI 00033 and Promissory Note Repayment Schedule

## UNITED STATES PATENT NO. 6,941,281

## Exposures` "credit card processor" and "credit card receivables", showing that credit cards SPECIFICATION PRIOR PUBLICATION REFERENCES

computer, or other point of sale device). magnetic card reader, keyboard input and/or including number as the customer identifier included, on information and belief, a terminal, were received as payment and that means Means for accepting a credit card exist,

electronic data representing transactions conducted through the use of CHARGE CARDS. "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and

RECORDs generated with BANK CARDs and the indebtednesses represented thereby." WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs representing such transactions to LITLE for processing and to sell to FNBL the SALES

Member Agreement at LI 00018.

MEMBER." Id. card, either of which MEMBER accepts from customers as payment for their purchases from ORGANIZATION to the CARDHOLDER and the charge account number designated on the "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD

after the effective date, if shown, and through and including the expiration date embossed White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and MEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue, "BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING

"CARD ORGANIZATION is VISA, MCI or the issuer of a T&E CARD."

valid on and after the effective date, if shown, and through and including the expiration date American Express, Carte Blanche, Diner's Club or Discover. A T&E CARD shall be deemen "T&E CARD is a valid and unexpired Travel and Entertainment CHARGE CARD issued by

embossed thereon." Id. at LI 00019

customer identifier. comprises means for accepting a debit card number as the invention of Plaintiff's asserted claims to apply systems and means in use for one type of The system of claim 10 wherein the accepting means It would have been obvious to a person of ordinary skill in the art at the time of the alleged cards. And the statements by the alleged inventor and by the examiner, and the language of the patent itself makes clear that a person of ordinary skill in the art would be motivated to customer identifier to another type of customer identifier, e.g. for debit cards as well as credi

EXHIBIT 6

computer input magnetic card reader, keyboard input and/or telephone. The merchant, make the method or system work in the same way for any customer identifier, including debit (hereafter "Forbes Article") (referring to Exposures' "credit card processor" and "credit card Pouschine, "People thought I was nuts", FORBES, June 8, 1992, v.149, n12, p120(2) Exposures, Inc., accepted credit cards from customers for payment. See M. Kripalani, T. cards. Debit card numbers may be accepted, for example, using the merchant's terminal or other-point of sale device). accepting a credit card exist, including, on information and belief, a terminal, computer, or receivables", showing that credit cards were received as payment and that means for SPECIFICATION PRIOR PUBLICATION REFERENCES

electronic data representing transactions conducted through the use of CHARGE CARDS, "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and

WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale RECORDs generated with BANK CARDs and the indebtednesses represented thereby." of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs Member Agreement at LI 00018. representing such transactions to LITLE for processing and to sell to FNBL the SALES

thereon." Id. and after the effective date, if shown, and through and including the expiration date embossed Blue, White and Gold Bands Design service mark. A BANK CARD shall be deemed valid or ISSUING MEMBER of MCI or VISA which contains the MasterCard service mark or Visa MEMBER." Id. card, either of which MEMBER accepts from customers as payment for their purchases from ORGANIZATION to the CARDHOLDER and the charge account number designated on the "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD "BANK CARD means a valid and unexpired CHARGE CARD issued by ar

"CARD ORGANIZATION is VISA, MCI or the issuer of a T&E CARD." Id

mbossed thereon." Id. at LI 00019 valid on and after the effective date, if shown, and through and including the expiration date "T&E CARD is a valid and unexpired Travel and Entertainment CHARGE CARD issued by umerican Express, Carte Blanche, Diner's Club or Discover. A T&E CARD shall be deemed

comprises means for accepting a smart card number as

13. The system of claim 10 wherein the accepting means It would have been obvious to a person of ordinary skill in the art at the time of the alleged invention of Plaintiff's asserted claims to apply systems and means in use for one type of

## CLAIMS

the customer identifier

SPECIFICATION PRIOR PUBLICATION REFERENCES

computer input-magnetic card reader, keyboard input and/or telephone the patent itself makes clear that a person of ordinary skill in the art would be motivated to customer identifier to another type of customer identifier, e.g. for smart cards as well as credi cards. Smart card numbers may be accepted, for example, using the merchant's terminal or make the method or system work in the same way for any customer identifier, including smar cards. And the statements by the alleged inventor and by the examiner, and the language of

electronic data representing transactions conducted through the use of CHARGE CARDS, "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and

and

of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale RECORDs generated with BANK CARDs and the indebtednesses represented thereby." representing such transactions to LITLE for processing and to sell to FNBL the SALES Member Agreement at LI 00018.

card, either of which MEMBER accepts from customers as payment for their purchases from ORGANIZATION to the CARDHOLDER and the charge account number designated on the "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD

White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and after the effective date, if shown, and through and including the expiration date embossed MEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue, "BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING

"CARD ORGANIZATION is VISA, MCI or the issuer of a T&E CARD." Id.

p120(2) (hereafter "Forbes-Article") (referring to Exposures' "credit card processor" and Kripalani, T. Pouschine, "People thought I was nuts", FORBES, June 8, 1992, v.149, n12, other point of sale device)-\_ <del>for accepting a credit card exist, including, on information and belief, a terminal, computer, o</del> The merchant, Exposures, Inc., accepted credit cards from customers for payment. See M. CHARGE CARD issued by American Express, Carte Blanche, Diner's Club or Discover. A <del>'credit card receivables'', showing that credit cards were received as payment and that mean</del> &E CARD shall be deemed valid on and after the effective date, if shown, and through an "T&E CARD is a valid and unexpired Travel and Entertainmen

the customer identifier.

## SPECIFICATION PRIOR PUBLICATION REFERENCES

comprises means for accepting a charge card number as invention of Plaintiff's asserted claims to apply systems and means in use for one-type of 14. The system of claim 10 wherein the accepting means|It would have been obvious to a person of ordinary skill in the art at the time of the alleged including charge-cards. Charge card numbers may be accepted, for example, using the motivated to make the method or system work in the same way for any customer identifier, language of the patent itself makes clear that a person of ordinary skill in the art would be credit cards. And the statements by the alleged inventor and by the examiner, and the customer identifier to another type of customer identifier, e.g. for charge cards as well as and that means for accepting a credit card exist, including Means for accepting a charge card merchant's terminal or computer input. The merchant, Exposures, Inc., accepted credit<u>The</u> or other point of sale device)-magnetic card reader, keyboard input and/or telephone. processor" and "credit card receivables"; showing that credit cards were received as paymen 1992, v.149, n12, p120(2) (hereafter "Forbes Article") (referring to Exposures' "credit card payment.—See M. Kripalani, T. Pouschine, "People thought I was nuts", FORBES, June 8, merchant, e.g., Museum Publications of America, accepted charge cards from customers for ncluding the expiration date embossed thereon." Id. at LI 00019 number as the customer identifier included, on information and belief, a terminal, computer "WHEREAS, LITLE and NPC are engaged in the business of processing paper based and

of PRODUCTS to MEMBER's customers, to submit SALES RECORDs and REFUNDs WHEREAS, MEMBER desires to honor CHARGE CARDS in connection with the retail sale RECORDs generated with BANK CARDs and the indebtednesses represented thereby." representing such transactions to LITLE for processing and to sell to FNBL the SALES Member Agreement at LI 00018.

electronic data representing transactions conducted through the use of CHARGE CARDS,

MEMBER." Id ORGANIZATION to the CARDHOLDER and the charge account number designated on the ard, either of which MEMBER accepts from customers as payment for their purchases from "CHARGE CARD is the plastic BANK CARD or T&E CARD issued by a CARD

White and Gold Bands Design service mark. A BANK CARD shall be deemed valid on and MEMBER of MCI or VISA which contains the MasterCard service mark or Visa's Blue, fter the effective date, if shown, and through and including the expiration date embossed "BANK CARD means a valid and unexpired CHARGE CARD issued by an ISSUING accumulating the payments until a predetermined amount Advance plus accrued interest at 10% ... Notwithstanding that such amounts are otherwise

thereon." Id.  "CARD ORGANIZATION is VISA. Mt  "T&E CARD is a valid and unexpired Tr  American Express. Carte Blanche. Diner's valid on and after the effective date. If she embossed thereon." Id. at 1.1 00019.  "Seem of claim 10 wherein the accepting means on information and belief, means for accepting the customer identifier at at a location of a merchant or merchant's seeminal, computer or other point of nagnu".  "C. MEMBER shall complete each SALI orovided for the CARDHOLDER's sign order (MO). telephone order (TO) or present at 1.1 00019.  "System of claim 10 wherein the accepting means on information and belief, means for a many belie	CLAIMS	SPECIFICATION PRIOR PUBLICATION REFERENCES
aim 10 wherein the accepting means accepting the customer identifier at aim 10 wherein the accepting means relectronically accepting the laim 10 wherein the means at the further comprise means for	-21,	<u>Id</u> ORGANIZATION is V
aim 10 wherein the accepting means accepting the customer identifier at a aim 10 wherein the accepting means relectronically accepting the aim 10 wherein the means at the further comprise means for		"T&E CARD is a valid and unexpired Travel and Entertainment CHARGE CARD i
aim 10 wherein the accepting means accepting the customer identifier at aim 10 wherein the accepting means relectronically accepting the laim 10 wherein the means at the further comprise means for	$\Delta$	merican Express, Carte Blanche, Diner's Club or Discover. A T&E CARD shall be
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aim 10 wherein the accepting means accepting the customer identifier at accepting the accepting means relectronically accepting the relectronically accepting the laim 10 wherein the means at the further comprise means for	er	mbossed thereon." Id. at LI 00019.
aim 10 wherein the accepting means relectronically accepting the laim 10 wherein the means at the further comprise means for	The system of claim 10 wherein the accepting means	
aim 10 wherein the accepting means relectronically accepting the	imprises means for accepting the customer identifier at at	t a location of a merchant or merchant's agent, including, on information and belie
aim 10 wherein the accepting means electronically accepting the laim 10 wherein the means at the further comprise means for	•	aminal, computer or other point ofmagnetic card reader, keyboard input and/or tele
g means		c. MEMBER shall complete each SALES RECORD to include a notation in the s
g means the		rovided for the CARDHOLDERS's signature that the sale device-was initiated by
g means the		rder (MO), telephone order (TO) or pre-authorized order (PO) (except for sales ma
g means		erson, for which the CARDHOLDER's signature shall be obtained) " Member
g means the		LI 00019.
the	g means	in information and belief, means for a merchant's electronically accepting a custom
claim 10 wherein the means at the		tentifiers electronically exist <u>identifier existed in the Litte system,</u> including, on litter to the control of
at the		nd ocner, a terminal, comparer or oaler electronic point or suic conver <u>s individue out</u> evboard and/or telephone.
at the		c. MEMBER shall complete each SALES RECORD to include a notation in the s
at the		rovided for the CARDHOLDERS's signature that the sale was initiated by mail ord
"WHEREAS, LITLE and NPC are enga electronic data representing transactions of CARDS" Member Agreement at LI accepts the customer identifier).  "SALES RECORD means all document CARD SALE." Id. at LI 00019 (showing customer identifier).  at the "In consideration of Litle & Co. making Postmaster, Atlanta, GA, [Exposures] agr	te	elephone order (TO) or pre-authorized order (PO) (except for sales made in person, f
"WHEREAS, LITLE and NPC are enga electronic data representing transactions of CARDS" Member Agreement at LL accepts the customer identifier).  "SALES RECORD means all document CARD SALE." Id. at LL 00019 (showing customer identifier).  at the "In consideration of Litle & Comaking Postmaster, Atlanta, GA, [Exposures] agr		ne CARDHOLDER's signature shall be obtained) " Member Agreement at LL
electronic data representing transactions c CARDS" Member Agreement at LI accepts the customer identifier).  "SALES RECORD means all document CARD SALE." Id. at LI 00019 (showing customer identifier).  at the "In consideration of Litle & Co. making Postmaster, Atlanta, GA, [Exposures] agr		LITLE and NPC
CARDS" Member Agreement at LI accepts the customer identifier).  "SALES RECORD means all document CARD SALE." Id. at LI 00019 (showing customer identifier).  at the "In consideration of Litle & Co. making Postmaster, Atlanta, GA, [Exposures] agr		lectronic data representing transactions conducted through the use of CHARGE
"SALES RECORD means all document CARD SALE." Id. at LI 00019 (showing customer identifier).  at the "In consideration of Litle & Co. making Postmaster, Atlanta, GA, [Exposures] agr		ARDS " Member Agreement at LI 00018 (showing that the merchant electron
"SALES RECORD means all document CARD SALE." Id. at L1 00019 (showing customer identifier).  at the "In consideration of Litle & Co. making Postmaster, Atlanta, GA, [Exposures] agr	<u>a</u>	
customer identifier).  at the  "In consideration of Litle & Comaking Postmaster, Atlanta, GA, [Exposures] agr		"SALES RECORD means all documents or data presented to LITLE as evidence of
at the  "In consideration of Litle & Co. making Postmaster, Atlanta, GA, [Exposures] agr		LI 00019 (
at the —"In consideration of Litle & Co. making Postmaster, Atlanta, GA, [Exposures] agr	<u>C</u>	ustomer identifier).
Postmaster, Atlanta, GA, [Exposures] agr		"In consideration of Litle & Co. making advances for the account of [Exposures] t
		Ostmaster, Atlanta, GA, [Exposures] agrees to pay on demand the Principal Amount of

The system of claim 10 wherein the forwarding Litle forwarded an amount that is a percentage of the obligation. On information and belief,	19. The system of cl
18. The system of claim 10 wherein the forwarding means at the merchant processor comprises means for periodically forward at least a portion of the payment schedules). On periodically forwarding at least a portion of the payment information and belief, the means for performing this function was a modem and computer to the third party.	18. The system of cl means at the mercha periodically forward to the third party.
and weekly payment amount).  On information and belief, the means for accumulating the payments until a predetermined amount was reached and means for forwarding at least a portion of the accumulated payments was a modem and computer running appropriate software.	
eomputer running appropriate software), [FN/2] /At this pre-claim construction stage of the action, Defendant takes no position as to the appropriateness of the claim construction applied in AdvanceMe's Preliminary Infringement Contentions for Defendants ("Infringement Contentions") but note that under the approach in the Infringement Contentions, which equates periodic forwarding with accumulation to a pre-determined amount, the Litle system anticipates this claim-would accumulate the payments until a predetermined amount was reached and then forward at least a portion of the accumulated and then forward at least a portion of the accumulated to the payments until a predetermined amount was reached and then forward at least a portion of the accumulated to the payments until a predetermined and then forward at least a portion of the accumulated to the payments until a predetermined to the payments until a predetermined and then forward at least a portion of the accumulated to the payments until a predetermined and the payments until a predetermined to the payments until a predetermined and then forward at least a portion of the accumulated to the payments until a predetermined and then forward at least a portion of the accumulated to the payments until a predetermined and then forward at least a portion of the accumulated to the payments until a predetermined and the payments until a payment and a paym	
is reached and means for forwarding at least a portion of payable on demand, [Exposures] agrees that Daily Repayments shall be deducted from the accumulated payments to the third party.  daily NET PROCEEDS." See Promissory Note (showing that means for periodically forwarding payments exist in the Litle system, including, on information and belief, a forwarding payments exist in the Litle system, including the literature of the payments and belief.	is reached and mean the accumulated pay
SPECIFICATION PUBLICATION REFERENCES	CLAIMS

THIE & CO Exmert 6 INVALIBITY CLAIM CHART

UNITED STATES PATENT NO. 6,941,281 percentage of the obligation. forwarding to the third party an amount that is a means at the merchant processor comprises means for CLAIMS

appropriate software), at LI 00033 (showing that payments forwarded were in an amount tha obligation exist in the Litle system, including, on information and belief, a computer running Postmaster, Atlanta, GA, [Exposures Museum Publications of America] to United States the means for performing this function was a computer running appropriate software. collectively constituted a percentage of the merchant's total obligation) was a percentage of the obligation); see also Promissory Note Repayment Schedule at Promissory Note (showing that means for forwarding an amount that is a percentage of the NET PROCEEDS.\_\_\_\_ Exposures MEMBER agrees that . . . (ii) the Daily Repayments shall be deducted from daily outstanding. Notwithstanding that such amounts are otherwise payable on demand, subsidiaries will be processed by Litle & Co. while any amount owed under this note is still Amount of Advance plus accrued interest at 10% ... management fee to Litle & Co., or order Postal Service, [Museum Publications of America] agrees to pay on demand the Principal MEMBER further agrees that all CHARGE CARD transactions from all divisions and "In consideration of Litle & Co. making advances for the account of [Exposures] to 00035 (outlining daily and weekly payment amount, all of which individually and SPECIFICATION PRIOR PUBLICATION REFERENCES ." See

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## EXHIBIT N

## TO AFFIDAVIT OF MICHAEL N. EDELMAN IN SUPPORT OF ADVANCEME, INC.'S OPPOSITION TO MOTION FOR LEAVE TO AMEND INVALIDITY CONTENTIONS

## Paul Hastings

**ATTORNEYS** 

Paul, Hastings, Janofsky & Walker LLP Five Palo Alto Square - Sixth Floor - Palo Alto, CA 94306-2155 telephone 650 320 1800 - tacsimile 650 320 1800 - www.paulhastings.com

Atlanta Reijina Brussels Hong Kong London Los Angeles Milan New York Orange County Paio Alto Paris San Diego San Francisco Shanghal Stamford Tokyo Washington, DC 650-320-1823 robertmatz@paulhastings.com

September 1, 2006

## Via E-Mail

Hilary Preston, Esq. Vinson & Elkins LLP 666 Fifth Avenue, 26th Floor New York, New York 10103

Re: AdvanceMe, Inc. v. RapidPay LLC, et al. (No. 6:05-cv-00424) (E.D. Tex.); AdvanceMe, Inc. v. AmeriMerchant, LLC (No. 6:06-CV-82)(E.D. Tex.). Defendants' Amended and Second Amended Invalidity Contentions

## Dear Hilary:

I write to inform you that Defendants in the above-referenced matters have violated the Patent Rules of the Eastern District of Texas by purporting to amend their Preliminary Invalidity Contentions without an order of the Court.

## P.R. 3-7 provides:

Amendment or modification of the....Preliminary or Final Invalidity Contentions, other than as expressly provided in P.R. 3-6, may be made only by order of the Court, which shall be entered only upon a showing of good cause.

In the RapidPay matter, Defendants have twice purported to amend their Preliminary Invalidity Contentions without an order of the Court. On July 21, 2006, Defendants attempted to amend their Preliminary Invalidity Contentions by adding a number of alleged prior publication references to their Preliminary Infringement Contentions: (1) a credit card processing agreement among Electronic Data Systems Corporation, Reno Air, and First USA Merchant Services, (2) an article from Forbes magazine, and (3) a Promissory Note between Litle & Co. and Exposures, Inc.. On August 30, 2006, the RapidPay Defendants purported to amend their Preliminary Invalidity Contentions to include additional prior publication references with respect to Litle & Co., including (1) a Litle & Co. Member Agreement, (2) a Demand Promissory Note for Postage Advances between Museum Publications of America and Litle & Co., (3) a February 17, 1994 Letter from Robert George to Michael Duffy. Since amendment of Defendants' Preliminary Invalidity Contentions can be made only by order of the Court, and since there is no order of the Court granting Defendants permission to amend their Preliminary Invalidity Contentions, these purported Amended and Second Amended Invalidity Contentions are of no legal effect.

Hilary Preston, Esq. September 1, 2006 Page 2

In the AmeriMerchant matter, on August 30, 2006, Defendant purported to amend its Preliminary Invalidity Contentions to include prior publication references with respect to Litle & Co., including (1) a Litle & Co. Member Agreement, (2) a Demand Promissory Note for Postage Advances between Museum Publications of America and Litle & Co., (3) a February 17, 1994 Letter from Robert George to Michael Duffy. Again, since amendment of Defendant's Preliminary Invalidity Contentions can be made only by order of the Court, and since there is no order of the Court granting Defendant permission to amend its Preliminary Invalidity Contentions, its Amended Preliminary Invalidity Contentions are of no legal effect.

In light of the foregoing, please be advised that AdvanceMe will only be considering those contentions set forth in Merchant Money Tree, Inc., First Funds LLC, and Reach Financial, LLC's Preliminary Invalidity Contentions, dated July 7, 2006, and AmeriMerchant, LLC's Preliminary Invalidity Contentions, dated July 20, 2006.

Robert C Mary

Sincerely

for PAUL, HASTINGS, JA'NOFSKY & WALKER LLP

LEGAL\_US\_W # 54328782.1

## **EXHIBIT 0**

TO AFFIDAVIT OF MICHAEL N. EDELMAN IN SUPPORT OF ADVANCEME, INC.'S OPPOSITION TO MOTION FOR LEAVE TO AMEND INVALIDITY CONTENTIONS

y

## Vinson&Elkins

## Facsimile

Joseph Gray jgray@velaw.com Tel 512.542.8420 Fax 512.236.3224

From:	Date:	Client/Matter No.
Joseph Gray	September 18, 2006	AME829/10000
Regarding:	Number of Pages	Hard Copy Follows
AdvanceMe, Inc. v. RapidPay LLC et al. (No. 6:05-cv-424) (E.D. Tex.) and	2 (including cover page)	Yes

AdvanceMe, Inc. v. AmeriMerchant LLC (No. 6:06-cv-82) (E.D. Tex.).

To:	Fex:	Phone:
Michael Edelman	650.320.1900	
Message:		

Please see the attached.

Confidentiality Notice: The information contained in this FAX may be confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual named above. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the below address. Thank you.

Vinson & Eikins LLP Attorneys at Law Austin Beijing Dallas Dubal Houston London Moscow New York Shanghai Tokyo Washington 2801 Via Fortuna, Suite 100 Austin, TX 78746-7568 Tel 512.542.8400 Fax 512.542.8612 www.velaw.com Joseph D. Gray jgray@velaw.com Tel 512.542.8420 Fax 512.236.3224

September 18, 2006

## VIA FACSIMILE & U.S. MAIL

Michael Edelman Paul, Hastings, Janofsky & Walker LLP Five Palo Alto Square, Sixth Floor Palo Alto, CA 94306-2155

Re: AdvanceMe, Inc. v. Rapidpay LLC, et al. (No. 6:05-cv-00424) (E.D. Tex.); AdvanceMe, Inc. v. AmeriMerchant LLC (No. 6:06-cv-082) (E.D. Tex.)

## Dear Michael:

We write to inform you that, after reviewing the transcript of Tim Litle's deposition, defendants AmeriMerchant, First Funds, Reach Financial and Merchant Money Tree have determined that they will seek leave to amend their invalidity contentions to include previously unknown facts that were revealed by Tim Litle's testimony. Specifically, the defendants will seek leave to amend the portion of their invalidity contentions relating to the Litle & Company prior art.

Please let me know at your earliest convenience whether AdvanceMe will oppose the defendants' motion for leave to amend their invalidity contentions to include the previously unknown facts revealed by Tim Litle's testimony.

Sincerely,

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